

Uniform Guidance and Reporting Compliance Guide

Recipients (“Recipient” or “Recipients”) of funding under the American Rescue Plan Act’s (“ARP”) Coronavirus State and Local Fiscal Recovery Funds (“CSLFRF”) should implement a robust and thoughtful compliance framework to support the administration of the Recipient’s CSLFRF allocation.

This framework is designed to assist municipalities in evaluating their compliance and reporting obligations as described in the [CSLFRF Compliance and Reporting Program Guidance](#). This guide contains select compliance considerations that are primary areas of emphasis common to the administration and expenditure of CSLFRF funds.

The areas covered in this Guide are:

- I. Compliance Considerations
- II. Monitoring Requirements
- III. Agreements (Recipient and Subrecipient)

This guide is not an exhaustive compilation of all possible compliance requirements, nor is it legal advice or a substitute for consulting with local attorneys and certified accounting professionals to address the particular circumstances of the Recipient. Recipients designing a CSLFRF program or constructing a CSLFRF compliance framework should review all U.S. Department of the Treasury (“Treasury”) program guidance, including the [Assistance Listing for the CSLFRF program](#), as well as all applicable federal, state, and local laws and regulations.

I. Compliance Considerations¹

The following is a summary of select compliance requirements from among those identified in Treasury’s [CSLFRF Compliance and Reporting Guidance](#) and the federal [Uniform Guidance \(2 CFR Part 200\)](#).

- **Eligible Activities** – Recipients must use CSLFRF funds for eligible activities in accordance with the Final Rule and the Compliance and Reporting Guidance.
- **Performance Indicators and Programmatic Data** – Recipients must report CSLFRF performance indicators and programmatic data on a quarterly and annual basis.
- **Records and Reporting** – Recipients must establish CSLFRF financial, administrative, and programmatic records and maintain documents for required information, data retention, and reporting.
- **Period of Performance** – Recipients must allocate CSLFRF funds in accordance with established period of performance dates.
- **Allowable Costs** – Recipients should ensure that CSLFRF activity costs, including

¹ Subrecipients must also comply with all requirements and program guidance under the Uniform Guidance (2 CFR Part 200).

administrative costs, are reasonable, allocable, properly calculated, and documented.

- **Internal Controls** – Recipients should manage and maintain CSLFRF funds and activities through effective internal controls.
- **Audits** – CSLFRF funds are subject to audit requirements, which may require a program-specific audit or audit under the Single Audit Act, depending on federal award expenditures.
- **Monitoring** – Recipients should monitor, inspect, and audit CSLFRF funds and activities to ensure that funds are used for authorized activities, costs, and purposes.
- **Procurement** – Recipients must procure CSLFRF-funded goods, services, and contracts in accordance with procurement procedures that reflect federal, state, and local laws and regulations.
- **Suspension and Debarment** – CSLFRF funds are subject to suspension and debarment regulations. Recipients should verify that their subrecipient(s) and/or contractor(s) are not excluded or disqualified from conducting business with the federal government.
- **Civil Rights** – Recipients and subrecipients must comply with all federal, state, and local nondiscrimination laws.

The following table provides more detailed information on these compliance requirements, with recommendations concerning good practices for general circumstances.

<u>Requirement</u>	<u>Recommendation</u>
Eligible Uses / Eligible Costs	<p>Recipients should ensure that CSLFRF funds are only used for eligible activities in accordance with the Final Rule, supplemental FAQ guidance, and the Compliance and Reporting Guidance. CSLFRF funds should not be used for any activity that is not eligible for funding under the CSLFRF regulations.</p> <p>Recipients should ensure that they identify and describe the eligible activity and appropriate expenditure category under the Compliance and Reporting Guidance for each use of CSLFRF funds.</p>
Performance Measures / Performance Indicators and Programmatic Data	<p>Recipients are responsible for oversight of financial and program operations, including reporting on specific financial or performance measures required by Treasury and the Recipient’s state and/or local government, as applicable.</p> <p>Recipients should report performance indicators and programmatic data on a quarterly and annual basis to Treasury and the Recipient’s state and/or local government, as applicable.</p> <p>The Compliance and Reporting Guidance identifies performance indicators and programmatic data by expenditure category, which are linked to eligible activities and uses. These activities and uses should</p>

	<p>be clearly specified in any agreement between Recipients and subrecipients to allow for the collection of the correct performance indicators and programmatic data that is required for the eligible activities administered by the Recipient.</p>
<p>Records and Reporting</p>	<p>Recipients are subject to Uniform Guidance 2 CFR Part 200 and should retain all <i><u>financial records, supporting documents, statistical records, and all other pertinent information</u></i> for five (5) years after all funds have been expended or returned, per the Compliance and Reporting Guidance, <i><u>or</u></i> as long as required by state law, <i><u>whichever is longer</u></i>.</p> <p>Recipients should identify and adhere to each expenditure category’s reporting requirements (<i>see</i> Compliance and Reporting Guidance p. 20-21 and p. 23-28) for each project.</p> <p>Subrecipients should provide Recipients with the information necessary for the Recipients to provide applicable reporting to Treasury and/or the Recipient’s state and/or local government.</p>
<p>Period of Performance and Time Frame</p>	<p>Recipients should adhere to the established period of performance. All costs should be incurred from March 3, 2021, to December 31, 2024, with disbursements no later than December 31, 2026. Any unspent funds must be returned to Treasury.</p>
<p>Allowable Costs and Cost Principles</p>	<p>Recipients and subrecipients should adhere to 2 CFR Part 200 Subpart E, Cost Principles, governing the use of CSLFRF funds, including but not limited to the following:</p> <ul style="list-style-type: none"> ● Funds may not be used as non-federal match where prohibited; ● Administrative costs should be reasonable and allocable; and ● Maximum indirect costs should be properly calculated. <p>Recipients can charge both direct and indirect costs as administrative costs.</p>
<p>Internal Controls and Risk Assessment</p>	<p>Recipients should develop and implement internal controls to ensure that they are funding only allowable activities and following cost principles.</p> <p>Internal controls should comply with the Government Accountability Office’s program guidance, Standards for Internal Control in the Federal Government.</p> <p>Recipients should include any risk assessment and internal control documents in their program file, including but not limited to:</p> <ul style="list-style-type: none"> ● Justification for key decisions; ● Determination of costs and applicable compliance requirements; ● Written policies and procedures; ● Written standard of conduct;

	<ul style="list-style-type: none"> ● Risk assessment; and ● Compliance monitoring report.
Audits	<p>CSLFRF funds are subject to 2 CFR Part 200 Subpart F’s audit requirements.</p> <p>Recipients that expend more than \$750,000 in federal awards during their fiscal year may be subject to an audit under the Single Audit Act and its implementing regulation, 2 CFR Part 200, Subpart F. For further information, examples, and Single Audit submissions, Recipients may refer to the Office of Management and Budget Compliance Supplement for guidance on audits of federal funds and the Federal Audit Clearinghouse.</p>
Reporting and Monitoring	<p>Recipients should set a schedule that allows the Recipient (or any entity engaged in monitoring on the Recipient’s behalf) to: (1) monitor the subrecipient in a timely fashion; and (2) submit any required reporting to Treasury and the Recipient’s state and/or local government, as applicable.</p> <p>Recipients that provide a subaward to a subrecipient to carry out part of a federal program should manage and monitor their subrecipients to ensure that subrecipients comply with CSLFRF requirements.</p> <p>Any program that uses funds on evidence-based interventions should follow the Compliance and Reporting Guidance requirements regarding the collection, maintenance, and recording of all relevant data.</p>
Procurement Compliance	<p>Recipients should determine whether their procurement standards meet the requirement for full and open competition under 2 CFR § 200.319, as well as the standards of 2 CFR § 200.318 through § 200.327.</p> <p>If the Recipient’s procurement standards do not meet these requirements, then the Recipient should adopt or comply with its state’s procurement procedures.</p> <p>In addition, Recipients should:</p> <ul style="list-style-type: none"> ● Maintain a copy of the Recipient’s procurement policies; and ● Maintain a copy of all subrecipients’ procurement policies.
Suspended and Debarred Parties	<p>Awards and contracts should not be made to parties that are suspended, debarred, or otherwise excluded from conducting business with the federal government. Parties that are ineligible to conduct business with the federal government are listed on the System for Award Management (SAM).</p> <p>Recipients should implement a process that contains adequate controls to ensure that subrecipients and contractors are not ineligible to conduct</p>

	<p>business with the federal government. For example, subrecipients and/or contractors should certify that they are not suspended, debarred, or otherwise excluded from entering into a transaction under 2 CFR Part 2424.</p> <p>Subrecipients should also have similar controls in place when administering their programs.</p>
<p>Civil Rights</p>	<p>All Recipients and subrecipients should comply with federal, state, and local nondiscrimination laws. Any entity receiving federal financial assistance from Treasury cannot deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following non-exhaustive list of authorities:</p> <ul style="list-style-type: none"> ● Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42; ● U.S.C § 2000d-1 <i>et seq.</i>, and implementing regulations, 31 CFR Part 22; ● Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-156, 29 U.S.C. § 794; ● Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 <i>et seq.</i>, and implementing regulations, 31 CFR Part 28; and ● Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 <i>et seq.</i>, and implementing regulations at 31 CFR Part 23. <p>The CSLFRF Compliance and Reporting Guidance indicates that Treasury will collect and review information from Recipients to determine their compliance with these laws and regulations. Treasury may request that Recipients submit data and a narrative describing their compliance with nondiscrimination laws.</p>

II. Monitoring Requirements

The type of monitoring that a Recipient should implement may vary depending on whether the individual or entity to which the Recipient provides CSLFRF funds is a contractor, subrecipient, or beneficiary.

- **Contractors:** Contractors are individuals or entities that receive funding to provide goods and services consistent with normal business operations that are also ancillary to the operation of an eligible activity. Contractors are not generally subject to many administrative compliance requirements of the federal program.
- **Subrecipient:** Subrecipients are individuals or entities that receive a subaward from a Recipient to carry out the purposes of the CSLFRF award on behalf of the Recipient. Subrecipients of CSLFRF funds are also subject to the ARP, Final Rule, supplemental FAQ guidance, and the Compliance and Reporting Guidance.

Subrecipients are partners in program administration and subject to monitoring by the Recipient.

- **Beneficiary:** Beneficiaries are individuals or entities that receive CSLFRF funds as end-users to respond to the negative economic impacts of the COVID-19 public health emergency. Beneficiaries are not subject to monitoring, reporting requirements, or audit(s) under the Single Audit Act.

III. Agreements

A. Recipient Agreements with Contractors

Below is a non-exhaustive list of requirements under 2 CFR Part 200 Appendix II that Recipients should consider when drafting an agreement with a contractor.

<u>Requirement</u>	<u>Recommendation</u>
Administrative, Contractual, or Legal Remedies	Contracts should address administrative, contractual, or legal remedies in the event that contractors violate or breach contract terms. Contracts should also provide for sanctions and penalties as appropriate.
Termination for Cause	Contracts in excess of \$10,000 should have a termination for cause and convenience clause that describes how termination will occur and the basis for any settlements.
Equal Employment Opportunity	Contracts that use federal funds to pay for construction work must include the equal opportunity clause provided under 41 CFR Part 60, unless otherwise stated in 41 CFR Part 60.
Davis-Bacon Act Compliance	Contracts for construction work in excess of \$2,000 should require contractors to pay wages to laborers and mechanics at a rate not less than the prevailing wage specified in a wage determination made by the Secretary of Labor under the Davis-Bacon Act.
Copeland Anti-Kickback Act	Contracts for construction work in excess of \$2,000 should prohibit contractors from inducing their workers to give up owed wages under the Copeland Anti-Kickback Act.
Work Hours and Safety Standards	<p>Contracts for mechanics or laborers in excess of \$100,000 should include labor standards that are consistent with the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3701-3708, and require that:</p> <ul style="list-style-type: none"> ● Contractors compute payments to employees based on a 40-hour work week; and ● No laborer or mechanic be required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous. <p><i>These requirements do not apply to the purchases of supplies, materials, or articles usually available on the open market,</i></p>

	<i>transportation contracts, or transmission of intelligence.</i>
Rights to Inventions	All contracts should include provisions governing the ownership of inventions created using federal funds.
Clean Air Act and Federal Water Pollution Control Act	Contracts in excess of \$150,000 should comply with all applicable standards, orders, or regulations pursuant to the Clean Air Act and the Federal Water Pollution Control Act. Violations should be reported to the federal awarding agency and the appropriate EPA regional office. Written proof of any such report should be included in the relevant project file.
Byrd Anti-Lobbying Amendment	<p>Contractors who apply or bid for an award in excess of \$100,000 should certify to the Recipient (or relevant tier above the contractor) that it has not used, and will not use, federal funds to pay any person or organization for influencing or attempting to influence any agency or Congressional employee, agency or Congressional officer, or member of Congress (or their employees) to award them the contract.</p> <p>Contractors should also disclose any lobbying with non-federal funds that has occurred in connection with obtaining a federal award.</p>

B. Recipient Agreements with Subrecipients

Below is a non-exhaustive list of requirements under [2 CFR § 200.332](#) that Recipients should consider when drafting an agreement with a subrecipient.

<u>Requirement</u>	<u>Recommendation</u>
Award Identification	<p>Subrecipient agreements should identify the federal award underlying the agreement and include:</p> <ul style="list-style-type: none"> ● Eligible program information; ● Period of performance; ● Allowable costs, including direct and indirect costs; ● Reporting requirements, including performance measures; ● Audit requirements; and ● Other requirements included in federal contracts.

<p>Indirect Costs</p>	<p>Indirect costs are general overhead costs of an organization where a portion of such costs are allocable to the CLFRF award, such as the cost of facilities or administrative functions like a director’s office.</p> <p>Subrecipient agreements should indicate how indirect costs will be allocated. Subrecipients may either: (i) negotiate the indirect cost rate with the Recipient; or (ii) apply the <i>de minimis</i> indirect cost rate of 10% of modified total direct costs.</p>
<p>Subrecipient Monitoring</p>	<p>Subrecipients that receive a subaward to carry out part of a federal program are subject to monitoring.</p> <p>Subrecipient agreements should require the subrecipient to fully and timely cooperate with the Recipient in the performance of any monitoring and enforcement activities.</p>

IV. References:

- American Rescue Plan Act of 2021 § 9901, Pub. L. No. 117-2, amending 42 U.S.C. § 801 *et seq.*, available at: <https://www.congress.gov/bill/117th-congress/house-bill/1319/text>.
- Treas. Reg. 31 CFR Part 35, Final Rule, available at: <https://home.treasury.gov/system/files/136/SLFRF-Final-Rule.pdf>.
- U.S. Department of the Treasury, State and Local Fiscal Recovery Funds Compliance and Reporting Guidance (February 28, 2022), available at: <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>.
- Uniform Guidance 2 CFR Part 200, available at: <https://www.eCFRgov/current/title-2/subtitle-A>.
- Assistance Listing for the Coronavirus State and Local Fiscal Recovery Funds, available at: <https://sam.gov/fal/873d18612d254b19b9a535ec6901b5a1/view>.
- System for Award Management, available at: <https://sam.gov>.
- Office of Management and Budget, available at: [Compliance Supplements for Audits of Federal Funds and Related Guidance](#).
- Federal Audit Clearinghouse, available at: <https://facweb.census.gov/uploadpdf.aspx>.
- Coordination of Non-Discrimination in Federally Assisted Programs, 28 CFR Part 42, available at: <https://www.ecfr.gov/current/title-28/chapter-I/part-42?toc=1>.